



REPLY TO
ATTENTION OF

Contracting and Acquisition
Management Office

DEPARTMENT OF THE ARMY
U.S. ARMY SPACE AND MISSILE DEFENSE COMMAND
POST OFFICE BOX 1500
HUNTSVILLE, ALABAMA 35807-3801
February 8, 2006

SUBJECT: Open Letter to Industry Relative to Prohibitions Against Discussions with Contractors During On-going Acquisition Activities; W9113M-06-R-0012, Systems Engineering and Technical Assistance Contract (SETAC) 07

Reference Federal Acquisition Regulation (FAR) 3.104, Procurement Integrity.

During any ongoing Federal acquisition activity, FAR 3.104, Procurement Integrity, places various prohibitions on both government and "competing contractor" personnel.

Many USASMDC, USASMDC-Headquarters, Program Executive Office-Misiles and Space and Other Government Agencies related to air, space and/or missile defense personnel have daily contact with many of the contractors who are or may be participating in the upcoming competition for the Systems Engineering and Technical Assistance Contract (SETAC).

Based on the above, you are reminded of the prohibition against providing any proprietary or source selection information to any "competing contractor." This prohibition, and associated sanctions and/or penalties, also applies to receipt of the restricted information by any "competing contractor" under the subject acquisition. Source selection information is not limited to material marked "SOURCE SELECTION INFORMATION - SEE FAR 2.101 and 3.104"; examples of other prohibited actions are provided below:

- a. Discussions of any real and/or potential SETAC requirements/activities beyond the scope of current SMDC SETAC contract or requirements/activities which will occur after 23 Apr 07 when the current SETAC Contract expires;
- b. Discussions of acquisition strategy including, but not limited to, the structure/contents of the draft or final solicitation, technical evaluation plans, and make-up of evaluation boards;
- c. Discussions concerning potential offerors, identification of contractors who have proposed, or even how many proposals have been received; and
- d. Discussions of any evaluation board reports, advisory board recommendations, or ongoing evaluation activities.

While the list above is far from exhaustive, it should provide a sound basis for each of you to determine if any of your current or potential activities are prohibited under FAR 3.140. Except for providing/receiving technical direction on current Task Orders or other current contracts, you should not have any discussions with any person concerning the government's requirements.

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In accordance with 41 U.S.C. 423(e)(1), (2), and (3), listed below are the various sanctions and/or penalties available for violations of the above-referenced prohibitions:

- a. Criminal penalties up to imprisonment for 5 years;
- b. Civil penalties up to \$50,000 fine per individual (government or contractor) and \$500,000 per contractor or firm; and
- c. Administrative actions up to and including dismissal from federal government or contractor employment.

If you have additional questions, you should contact Ms. Pam Willis, 955-3388.

Sincerely,

A handwritten signature in cursive script that reads "Mark J. Lumer".

MARK J. LUMER
Principal Assistant Responsible
for Contracting